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FISCAL IMPACT STATEMENT

LS 6281

BILL NUMBER: HB 1237

NOTE PREPARED: Nov 28, 2005

BILL AMENDED:

SUBJECT: Licensure of Midwives.

FIRST AUTHOR: Rep. Welch

FIRST SPONSOR:

BILL STATUS: As Introduced

FUNDS AFFECTED: X GENERAL
X DEDICATED
FEDERAL

IMPACT: State

Summary of Legislation: This bill establishes the Midwifery Board and sets qualifications for a certified professional midwife (CPM). It requires the Board to:

- (1) develop peer review procedures;
- (2) require the purchase of liability insurance as a condition for licensure if the Board determines liability insurance is sufficiently available; and
- (3) adopt rules limiting the scope of practice of CPMs to nonhospital settings.

The bill makes it a Class B misdemeanor to practice midwifery without a license and adds culpability to the crimes of practicing medicine or osteopathic medicine and acting as a physician's assistant without a license. It allows the Board to specify circumstances under which a CPM may administer certain prescription drugs. It also provides that a health care provider may not be held liable for the acts or omissions of a CPM or a licensed physician who has a collaborative agreement with the CPM.

The bill allows certain individuals to act under the supervision of a CPM. It requires the Office of Medicaid Policy and Planning to seek a waiver from the United States Department of Health and Human Services to allow Medicaid reimbursement for CPMs. The bill also repeals the definition of "midwife" in the medical malpractice law.

Effective Date: July 1, 2006.

Summary of Net State Impact: The Professional Licensing Agency (PLA) will experience an increase in expenses related to operating a new licensing board, including issuing new licenses. However, fees should be

set at a level designed to cover expenses. The amount of revenue potentially generated from issuing a new license is dependent on the number of professional midwife applicants.

Explanation of State Expenditures: This bill creates a new health care professional category for licensed certified professional midwives and reclassifies nurse midwives as certified nurse midwives. Certified nurse midwives would remain under the jurisdiction of the Board of Nursing, while the certified professional midwives would be under the jurisdiction of the Indiana Midwifery Board established by this bill. The Professional Licensing Agency reports that as of November 2005, 63 certified nurse midwives and 50 nurse midwives were licensed in Indiana.

The seven-member Indiana Midwifery Board would be responsible for overseeing the licensing process, establishing fees and continuing education requirements, supervising the peer review process, and preparing consent and other relevant forms.

The start-up costs for a new board are greater than the annual costs once it is established. Depending on revenue balances from licenses issued by all of PLA's boards, PLA could potentially cover a portion of these costs. Once the board is established, annual costs will include travel and per diem for board member meetings and other costs, such as postage, printing, telephone, and supplies.

The PLA, which would provide staff to the Board, may require an additional PAT II position and a Secretary III position to carry out the provisions of this bill. The additional expenditures for both of the above-listed positions would be \$86,219 in FY 2007 and \$85,765 in FY 2008.

The funds and resources required above could be supplied through a variety of sources, including the following: (1) existing staff and resources not currently being used to capacity; (2) existing staff and resources currently being used in another program; (3) authorized, but vacant, staff positions, including those positions that would need to be reclassified; (4) funds that, otherwise, would be reverted; or (5) new appropriations. As of October 4, 2005, PLA employed 88 authorized full-time staff members and had 14 vacancies (ten COMOT3, two COMOT4, one PAT 1, and one PAT5 positions). Ultimately, the source of funds and resources required to satisfy the requirements of this bill will depend upon legislative and administrative actions.

Penalty Provision: Under current law, any person other than a registered nurse practicing midwifery without a license commits a Class D felony. This bill would change the penalty to a Class B misdemeanor for a person who practices midwifery without a license. This provision potentially reduces the costs to the state if an offender is convicted of a misdemeanor rather than a felony. This is because offenders convicted of a misdemeanor who are given a prison term are generally incarcerated in county jails. A Class D felony is punishable by a prison term ranging between six months and three years or reduction to Class A misdemeanor depending upon mitigating and aggravating circumstances.

Midwife Reimbursement Under the Medicaid Program: This bill also requires OMPP to seek a waiver from the U.S. Department of Health and Human Services (HHS) to allow Medicaid reimbursement for licensed certified professional midwives (CPMs) who are not registered nurses. According to OMPP, federal financial participation is not currently available for services rendered by a midwife when the practitioner is not a registered nurse. The bill provides that if HHS does not grant a waiver from these regulations, Medicaid will not reimburse these midwifery services and, thus, the state General Fund will not incur any additional costs. If HHS does grant the waiver, the bill adds licensed CPMs to the list of practitioners able to receive Medicaid reimbursement. Since this does not represent an expansion of Medicaid services, the Medicaid program should

not incur additional costs.

The waiver application process is not without opportunity costs. Waiver applications are generally developed and submitted by the existing staff in OMPP. Applications must be developed and adequately justified. If the Centers for Medicare and Medicaid Services (CMS) have questions or request additional information, staff must be available to respond within specified time lines or the request is considered expired. If the waivers are subsequently approved, OMPP must implement the services and fulfill any waiver reporting requirements.

Explanation of State Revenues: The Indiana Midwifery Board establishes fees for the examination and licensure of midwives. Presumably, fees will be set at a level designed to cover expenses. The amount of revenue that will be generated by this proposal is indeterminable, but will depend on the number of CPMs who seek licensure. The Board may also impose fines up to \$500 upon a person licensed under this article who violates certain provisions of this proposal.

Penalty Provision: This provision potentially reduces the revenue to the Common School Fund if additional court cases occur and a fine is assessed. The maximum fine for a Class B misdemeanor is \$1,000, while the maximum fine for a Class D felony is \$10,000. Court fees for both misdemeanors and felonies are \$120.

Explanation of Local Expenditures: *Penalty Provision:* This provision could increase local expenditures if offenders are incarcerated in local jails rather than in state prisons. A Class B misdemeanor is punishable by up to 180 days in jail. The average daily cost of housing a prisoner in jail is roughly \$44.

Explanation of Local Revenues:

State Agencies Affected: Professional Licensing Agency, Office of the Secretary of Family and Social Services, Office of Medicaid Policy and Planning, and the Department of Insurance.

Local Agencies Affected: Trial courts, local law enforcement agencies.

Information Sources: Professional Licensing Agency; Pat Nolting, OMPP, 232-4318.

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